



DEP FACT SHEET

Summary of Laws Pertaining to Overboard Discharges

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What is an overboard discharge?

An overboard discharge (OBD) is defined as a discharge to the surface waters of the State of domestic pollutants not conveyed to municipal or quasi-municipal sewerage treatment facilities. In general, an OBD is a discharge of treated sanitary wastewater from residential, commercial, and publicly owned facilities to Maine's streams, rivers lakes, and the ocean. Commercial and residential discharges of sanitary waste have been regulated since the mid-1970's when most direct discharges of untreated waste were banned. Unlicensed discharges, including discharges from "straight pipes" are NOT "grandfathered". They are illegal and must be replaced by approved subsurface or licensed overboard discharge systems or connected to a publicly-owned treatment works. 38 MRSA §361-A(3)(C) and 38 MRSA §466(9-A)

In the 1970s, most of the "straight pipes" were connected to publicly-owned treatment works or replaced with standard septic systems. Facilities without access to a publicly-owned treatment works or unable to install a septic system because of poor soil conditions or small lot sizes installed overboard discharge treatment systems. Approximately 1,640 OBDs licensed residential or commercial OBDs remain throughout the state today. OBDs are relicensed every five years and are inspected by the Department annually.

What are the legal requirements of the overboard discharges laws?

The overboard discharge laws exist: 1) to encourage the reopening of the shellfish harvesting areas and improve Maine's water quality by replacing OBDs with conventional septic systems or public sewer connections; 2) to ensure compliance with state regulations requiring maintenance of existing overboard discharge systems. The laws accomplish this goal by:

- ◆ Requiring OBD owners to obtain and maintain licenses for their overboard discharges [38 MRSA §413(1)].
- ◆ Requiring the Department to inspect all licensed overboard discharge systems. The cost of the inspections must be assessed as part of the annual license fee [38 MRSA §414(3-A)].
- ◆ Requiring overboard discharge license owners with a mechanical treatment system to provide annual proof of a private maintenance contract for maintenance of that system [38 MRSA §414(3-A)].
- ◆ Prohibiting licensure of new OBDs unless the discharges were in continuous existence for the twelve months preceding June 1, 1987, as demonstrated by the applicant to the Department's satisfaction with clear and convincing evidence [38 MRSA § 464 (4)(A)].
- ◆ Prohibiting the expansion of existing OBDs. Adding sources of wastewater to a licensed OBD system (including additional bedrooms), increasing the number of months when a seasonal discharge occurs, and increasing the licensed flow or quantity generated by the discharge are all considered expansions and are therefore prohibited [38 MRSA § 464 (4)(A)].
- ◆ Granting the Attorneys General Office authority to pursue owners of properties with unlicensed discharges [38 MRSA §413(6)].

In May of 2003, the legislature adopted several additional amendments under Public Law 2003 Chapter 246 that became effective September 13, 2003. The amendments require:

- ◆ The buyers of properties served by OBDs to obtain a qualified Licensed Site Evaluator's (LSE) evaluation of whether the OBD can be replaced with a technologically feasible non-discharging alternative system prior to sale of the property and install the replacement within 90 days weather permitting [38 MRSA §413 (3)].
- ◆ OBD owners to hire a LSE to determine whether there is a technologically feasible replacement for existing OBD systems prior to license renewal if one has not been done in the five years previous and install the replacement within 180 days if grant money is offered by the Department. If no grant money is available, the replacement system installation may be postponed [38 MRSA §414-A(1-B)(A)].
- ◆ The Department to restrict the discharge volume based on specific determinations of the actual or estimated volume from the facilities connected to the overboard discharge prior to 1987. The Department must also restrict the months during which a discharge may occur according to specific requirements. Finally, a year-round residence to be defined as a facility that is continuously used for more than 8 months of the year [38 MRSA §464(4)(A)].

OBD Removal Grant Program

The bond-funded [Overboard Discharge Removal Grant Program](#) was established to remove discharges to valuable shellfish areas, thereby opening them for harvest and to remove public nuisance conditions. Discharges are scheduled for removal according to a priority list generated by DEP and the Department of Marine Resources. The major legal requirements of the grant program are:

- ◆ The Department will pay a portion of the cost of an OBD replacement system, there percentage of funding is determined by the following table. The funding formula was changed as part of Public Law 2003, Chapter 246 [38 MRSA §411-A].

Applicant's income (based on previous year's federal tax return):	OBD removal reimbursement:
Residential OBD. Less than \$25,000 per year taxable income	100 percent
Residential OBD. \$25,001- \$50,000 per year taxable income	90 percent
Residential OBD. \$50,001 - \$75,000 per year taxable income	50 percent
Residential OBD. \$75,001 - \$100,000 per year taxable income	35 percent
Residential OBD. \$100,001 per year or more taxable income	25 percent
Publicly owned OBD.	50 percent (\$150,000 maximum)

Because public funds are limited and the grants can only be made as money becomes available, funding priority is given to owners of OBDs that discharge to high-value shellfish areas. Some reimbursement funds are available to those who apply for money to remove their systems. The DEP encourages all licensees to pursue alternate wastewater disposal regardless of the availability of grant money because of the tremendous ecological and economic importance of restoring Maine's water quality in shellfish harvesting areas.

For more information:

If you have questions about:	Contact	Telephone	Email
License transfers/renewals, selling a property with an OBD, general program questions	Mike Demarest	(207) 287-3901	michael.demarest@Maine.gov
OBD system compliance, inspections, or inspection reports	Chris Johnson	(207) 287-7684	christopher.p.johnson@Maine.gov
OBD removal grant program	Richard Green	(207) 287-7765	richard.a.green@Maine.gov

If you prefer to write us, all of the staff above can be reached at:

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Please be sure to visit the DEP website through www.MaineDEP.com keyword: **OBD**